

From: Paul Dembry
To: Microsoft ATR
Date: 1/24/02 12:48pm
Subject: Microsoft Settlement

Your Honor,

I have followed the various Microsoft cases for many years. My company uses many Microsoft products as well as many from Sun Microsystems, IBM, Hewlett-Packard, Silicon Graphics, Compaq, and Apple. We run our main software development system on RedHat Linux.

When Netscape's predecessor browser Mozilla became available, we started using it within our firm. After all the price was right (free!) and it worked ok most of the time. When it crashed, you just restarted it. We are a software development firm and so this did not bother us. When Netscape added features to this original browser and packaged it as the Netscape Browser, we eagerly downloaded and used it for the same low price (free!). At the time, Netscape was the dominant provider and acted like it was the only provider. They were arrogant and when faced with product deficiencies, their response was "take it or leave it."

Then Microsoft decided that the Internet was not going away and produced Internet Explorer for the same low price (free!). The first few releases were not very good and we stayed with Netscape, but over a period of a couple of years, IE really improved to the point that it is much more reliable than NS. At that point, we dropped using NS on Windows and use IE. We still use NS on our non-Windows machines even though there is a Java version of IE but it is not very good. If it improves to the point that it is better than NS, we may switch to it.

My point here is that NS had the market to itself and blew it. Microsoft was late to the party, kept grinding away at improving IE, and is now the main browser provider. Nothing prevents me from downloading NS and using it except for the fact that it is an inferior product. Microsoft did use its muscle to ensure that IE was bundled on each new PC but so what? If the consumer did not want to use it, he could simply download NS and that was the end of it. If you do not like the Ford radio in your new car, replace it with a new one. Apple computer managed to marginalize itself in the same way. Apple had a superior product to Windows for many years. They were arrogant and kept the price high enough that consumers concluded that they could live with the much cheaper and not as good Windows products. Microsoft kept improving Windows to the point where Apple is a very small part of the consumer market.

These cases against MS boil down to one central issue: the failure of Microsoft's competitors to provide better products. Instead of competing in the marketplace, they competed in the courts. Somehow they managed to convince the trial judge that Microsoft used illegal tactics to steal market share. You have an opportunity to expose this travesty of common sense. I do not need the Federal government to spend my tax dollars to tell me what software I need on my systems.

My firm competes against many very large companies in the software arena, including Oracle and Software AG. We have a very hard job convincing

potential customers to go with us instead of the "big guys" but we manage to do it on the strength of our products. Oracle, for example, has attempted to duplicate some of our technology in its database but we still manage to provide a better performing product. Perhaps we should have gone to the court system and said that Oracle was bundling some of our ideas into their products and thus harming us. I certainly hope that the trial judge would have laughed us out of court! Instead we just keep focusing on improving our products to keep ahead of our competitors, just as Microsoft does.

When the justice system is used against successful business by their less successful competitors, the economy will suffer. Political decision making in the business arena leads to corruption and decay. We have laws that govern personal and business conduct and these must be enforced. This is one function of government. But when competitors abuse the justice and political systems in an attempt to throttle companies, we will all lose.

It is important to remember that not one of these Microsoft cases was brought to court by consumers. Consumers have greatly benefited from the software and hardware innovations of the last three decades. There are very few barriers to entry in the software business and this serves to keep all software vendors vigilant. This is all that is required to keep new products and ideas reaching consumers at a reasonable cost.

Sincerely,
Paul Dembry